

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 14999 of 2004

Between:

- 1 Laxman Naik, S/o Sukya Naik,
E.C.No. 4833, E.D.N.F.C. Hyderabad.
- 2 K. Satyanarayana, S/o Chittari,
E.C.No. 3475, PS, CRPF , aged 43 years, N.F.C. Hyderabad.

..... PETITIONER(S)

AND

- 1 Government of Andhra Pradesh, rep. by its Secretary,
Department of Home, Secretariat, Hyderabad.
- 2 Station House Officer, Kushaiguda, Ranga Reddy District.
- 3 The Registrar of Societies, O/o The Commissioner & Inspector General of
Registration and Stamps, A.P. Hyderabad.
- 4 S. Sailu (Election Officer), H.No. 26, MIG H, Santhoshinagar Colony,
Hyderabad.
- 5 Deputy Chief Executive (Administration), NFC D.A.E., Hyderabad.
- 6 P. Narsing Rao (Convenor), Autosection/ NFC, Hyderabad.
- 7 Takur Singh (Co-convenor), Utility N.F.C. Hyderabad.
- 8 Manager, State Bank of India, N.F.C. Branch, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other appropriate writ to call for the records declaring the election which was showed in Ref.NFC/STEWa/23/04 passed by NFC St. Employees welfare Association dt. 18-1-2003 is null and void and set aside the same, and consequently direct the respondent No.3, is call for fresh election while enquire the matter by seizing all the records pending before respondents 6 and 7.

Counsel for the Petitioners: MRS.ANITA SWAIN

Counsel for the respondents 1 and 2: G.P. for Home

Counsel for the respondent No.3: GP FOR COOPERATION

Counsel for the Respondent Nos.4, 6 & 7: ----

Counsel for the Respondent No.5: MS.Y.N.LOHITA (SC FOR AP FINANCE CORP)

Counsel for the Respondent No.8: Smt CH.LAXMI, Standing Counsel

The Court at the stage of admission made the following Order:

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.14999 OF 2004

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ORAL ORDER :

The petitioners state that they are the members of N.F.C. Schedule Tribe Employee Welfare Association, which is a Society registered under the Andhra Pradesh (Telangana Area) Public Societies Registration Act 1350 Fasli vide registration No.2677 of 1989. The office of the said society is situated at Nuclear Fuel Complex, Moulali. It is stated that the meeting of the general body of the society was convened on 15-12-2003 for the purpose of electing the Executive Committee for the period of two years from January, 2004 to January, 2006. The respondents 6 and 7 were nominated as Convener and Co-convener respectively for conducting elections for the posts of President, Vice-president, General Secretary, Assistant Secretary, Organisation Secretary and Treasurer. The petitioners submitted their nominations for the post of President-cum-General Secretary and Vice-president respectively and paid the prescribed nomination fees. The elections were supposed to be conducted on 18-01-2004. However, the same could not be conducted and the office-bearers of the previous committee continued in the office to which the petitioners protested and filed objections before the respondents 6 and 7. However, respondents 6 and 7 with

the help of anti-social elements prevented the petitioners from raising objections. In the circumstances, the petitioners lodged a complaint dated 19-01-2004 before the respondents 2 and 5 i.e., Station House Officer, Kushaiguda, Ranga Reddy District and Deputy Chief Executive (Administration) NFC., DAE., Hyderabad. The second respondent acknowledged the complaint filed by the petitioner, but no action was taken. Similarly, though the complaint, made before the fifth respondent, was forwarded through proper channel, no further steps were taken.

The petitioners state that the respondents 6 and 7 being the Convener and Co-convener of the Executive Committee are not entitled to contest the elections, but without conducting elections, they declared themselves as President and Advisor and they have also been proclaiming that as long as the association exists, they would continue as President and Advisor. In the circumstances, the petitioners approached the third respondent – Registrar of Societies, Hyderabad, and made a representation on 01-03-2004. In pursuance thereof, the third respondent vide letter dated 07-04-2004 informed the petitioners that under Section 23 of the Registration of Societies Act, 2001 in the event of any dispute arising between the committee or the members of the society in respect of any matter relating to the affairs of the society, any member of the society may proceed with the dispute under the provisions of the Arbitration and Conciliation Act, 1996 or may file an application in the District Court concerned and the said Court shall, after necessary inquiry, pass such order as it may deem fit. It is claimed that though the said letter was dated 07-04-2004, it was communicated to the petitioner only on 10-08-2004. It is alleged that the respondents 6 and 7 are misutilising the funds of the society and also not acting in the interest of the members of the society. However, the respondents 4 and 5 failed to take any action. It is also pleaded that the petitioners cannot file a petition before the District Court in terms of Section 23 of the Registration of Societies Act since the alleged elections were held long back in January, 2004 and the claim is barred by limitation. Hence, this writ petition seeking a Writ of Certiorari declaring the elections dated 18-01-2004 as null and void and to direct the 3rd respondent – Registrar of Societies to conduct fresh elections to the Society.

It appears that on 19-01-2004 the 1st petitioner lodged a complaint with the 2nd

respondent – Station House Officer, Kushaiguda alleging that during the general body meeting of the society held on 18-1-2004, at the instance of the respondents 6 and 7, an attempt was made to kill him and therefore requested to take necessary action. Contending that the 2nd respondent failed to take any action on the basis of his complaint, the petitioner also sought for an interim direction to the 2nd respondent to investigate the matter on his complaint dated 19-01-2004 and to take necessary action. Hence, this writ petition contending that in the facts and circumstances of the case, respondents 6 and 7 are to be prevented from continuing in the office, since they are misutilising the funds of the society. It is also contended that in spite of the fact that the complaint was lodged as long back as on 19-01-2004, the second respondent failed to take any action.

On behalf of the respondents 1 and 2, a counter-affidavit has been filed by the Sub-Inspector of Police, Kushaiguda, Cyberabad on 30-09-2004 stating that after receiving the complaint from the petitioners, the second respondent enquired about the genuineness of the allegations made and he also approached the election authority, who conducted the elections of the society to know the truth. In the enquiry, the allegations made by the petitioners were found to be false and therefore no further action was taken.

I have heard the learned Counsel for the petitioners and the learned Government Pleader for Home appearing for the respondents 1 and 2.

At the outset, it is to be noted that the alleged incident took place as long back as on 18-01-2004. The complaint was lodged by the petitioners on the same day. However, on enquiry, the second respondent found that the allegations were not correct. In the light of the averments made in the counter-affidavit explaining the steps taken in pursuance of the petitioner's complaint, the alleged inaction on the part of the second respondent as alleged by the petitioners cannot be accepted.

So far as the elections to the society are concerned, the third respondent by letter dated 07-04-2004 has already informed the petitioners that the proper remedy as

provided under the statute is either to initiate the proceedings under the Arbitration and Conciliation Act, 1996 or to file an application in the District Court. The said decision of the third respondent is in accordance with the statutory provisions and cannot be found fault with. Without exhausting the said remedy provided under the Statute, the petitioner cannot maintain this writ petition under Article 226 of the Constitution of India. Whether there was any delay in communicating the decision of the third respondent and whether the petitioners were deprived of their right to avail the statutory remedy are all pure questions of fact which cannot be gone into by this Court and at any rate that cannot be a valid ground to maintain the writ petition without exhausting the efficacious alternative remedy available under the Statute. In the circumstances, I do not find any merit in the writ petition.

Accordingly, granting leave and liberty to the petitioners to work out the appropriate remedy as available under law for redressal of their grievance, the Writ Petition is disposed of. No costs.

03rd November, 2004.

Note:- CC in one week.

(B/O)

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To

- 1 The Secretary, Government of Andhra Pradesh,
Department of Home, Secretariat, Hyderabad.
- 2 The Station House Officer, Kushaiguda, Ranga Reddy District.
- 3 The Registrar of Societies, O/o The Commissioner & Inspector General of
Registration and Stamps, A.P. Hyderabad.
- 4 The Deputy Chief Executive (Administration), NFC, D.A.E., Hyderabad.
- 5 The Manager, State Bank of India, N.F.C. Branch, Hyderabad.

- 6 Two CCs to the Government Pleader for Home, A.P.High Court Buildings,
Hyderabad (OUT).

- 7 Two CCs to the Government Pleader for Cooperatives, A.P.High Court Buildings,
Hyderabad (OUT).

- 8 Two CD copies.

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 14999 of 2004

Date:03-11-2004

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